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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Oyvind Stromme

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EXAMINER

SMITH, CHENEA

ART UNIT

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2421

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/696,747	Applicant(s) STROMME, OYVIND	
	Examiner CHENEA P. SMITH	Art Unit 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-11 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows:

Claims 1-11 and 14 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process”, or method, under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101” – publicly available at USPTO.GOV, “memorandum to examining corp.”). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be “tied” to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

The examiner suggests:

Amending the claim(s) to embody “using a processor (or computer) to perform the steps of:”.

Applicants should note that any amendment to a claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9 and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemmons (US20030028873, hereinafter Lemmons).

Regarding claims 1 and 12, Lemmons discloses a method for generating a stream of video images (scenes/frames of the video, see Lemmons, [0031], lines 1-2 and Figs. 6A and 6B) such as, at the reception, in each current video image, a preregistered picture (labels 610/620, see Lemmons, Figs. 6A and 6B) can be

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superimposed to a predetermined area of a moving object (soda can 608/618, see Lemmons, Figs. 6A and 6B), comprising:

providing a first set of views of the picture for various orientations thereof (the set of views being the saved information of the positions and parameters of the hot spot that defines the trajectory of the hot spot, see page 5, lines 1-9, page 10, lines 11-17 and page 11, lines 21-30 of 60/354,745), which is incorporated by reference, and Lemmons, [0050], lines 1-8) and associating with each oriented view an identifying parameter (see '745, Fig. 7),

estimating in each video image the location, orientation and size of the area of the object (see Lemmons, [0083]-[0084], line 5),

selecting the identifying parameter of the oriented view having the same orientation as the area in the current image (see Lemmons, Figs. 6A-6B and [0082]-[0083], line 5, and '745, Fig. 7 and page 5, lines 1-9), and

transmitting with each current image the selected identifying parameter along with information on the location and size of the area (see Lemmons, [0084], lines 5-9 and '745, page 9, lines 14-29 and page 12, lines 1-3).

Regarding claims 2 and 13, Lemmons discloses downloading (see Lemmons, [0084], lines 5-9 and '745, page 9, lines 14-29 and page 12, lines 1-3) at least one second set of views of the picture, corresponding to the first set of views (the second set of views are the updates to the hot spots, see Lemmons, [0010], lines 10-18, [0013], lines 6-14 and [0040], lines 6-7), and for each image:

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extracting the identifying parameter and the size and location information (see Lemmons, Figs. 6A-6B and [0082]-[0083], line 5, and '745, Fig. 7 and page 5, lines 1-9),

selecting, from the second set of views, an oriented picture in accordance with the identifying parameter (see Lemmons, Figs. 6A-6B and [0082]-[0083], line 5, and '745, Fig. 7 and page 5, lines 1-9),

computing a scaled picture on the basis of the size information (see Lemmons, [0082]-[0084], line 5, Figs. 6A-6B and '745, Fig. 7 and page 5, lines 1-9), and

superimposing the scaled picture in the current image at a location corresponding to the location information (see Lemmons, Figs. 6A-6B and [0082]-[0083], line 5, and '745, Fig. 7 and page 5, lines 1-9).

Regarding claim 3, Lemmons discloses, at the beginning of a TV program to be transmitted, the second set of views is downloaded in video receivers (As the labels/label information may be downloaded, and it is very well known in the art and common that a download can occur at any time, Lemmons fairly suggests that at the beginning of a TV program to be transmitted, the second set of views is downloaded in video receivers, see Lemmons, [0084], lines 5-9 and '745, page 9, lines 14-29 and page 12, lines 1-3).

Regarding claim 4, Lemmons discloses the second set of views is identical to the first set of views (Lemmons teaches that the labels may be altered or replaced, which thereby reasonably suggests that the second set of views can be replaced with the same or different content, see Lemmons, [0010], lines 7-8).

Regarding claim 5, Lemmons discloses in which the first set of views contains only picture frames (because Lemmons teaches that an object may be defined with a hot spot of which may only include an outline of a specific area, it is fairly suggested that a first set of views contains only picture frames, as there is no specific ad or label visible, see '745, page 5, lines 4-24).

Regarding claim 6, Lemmons discloses the second set of views contains picture frames of same orientation of the first set of views (hot spots outlining the same object as those of the first set of views, see Lemmons, [0010], lines 10-18, [0013], lines 6-14 and [0040], lines 6-7 and '745, page 5, lines 4-24), with a picture content (Lemmons teaches labels/hot spots, i.e., hot labels, see Lemmons, [0010], lines 1-7).

Regarding claim 7, Lemmons discloses the content of the second set of views depends upon the geographic broadcasting zone (see Lemmons, [0013], lines 6-14 and [0040], lines 1-13).

Regarding claim 8, Lemmons discloses the location and orientation information in a current image are calculated for a reference point of the object (see Lemmons, [0083]-[0084], line 5).

Regarding claim 9, Lemmons discloses, in a current image, the location, orientation and size of an object are provided in a differential way with respect to a former image (see '745, page 13, line 30 – page 14, line 11).

Regarding claim 11, Lemmons discloses using shape recognition tools to detect the presence of the moving object in the current image on the basis on a stored geometrical representation (see Lemmons, [0064], lines 20-32).

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Regarding claim 14, Lemmons discloses a second set of views contains picture frames of same orientation of the first set of views, with a picture content (the second set of views are the updates to the hot spots, see Lemmons, [0010], lines 10-18, [0013], lines 6-14 and [0040], lines 6-7 and Figs. 6A-6B).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons (previously cited), as applied to claim 1 above, and further in view of Wixson (US6434254, hereinafter Wixson).

Regarding claim 10, Lemmons does not specifically disclose static points of an image are localizable to detect when a new object comes into a next image.

In an analogous art, Wixson discloses static points of an image are localizable to detect when a new object comes into a next image (see col 1, lines 26-32).

It would have been obvious for a person having ordinary skill in the art at the time of the invention to modify Lemmons' system to include static points of an image are

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localizable to detect when a new object comes into a next image, as disclosed by Wixson, for the advantage of providing an advertisement to the newly detected object.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENEA P. SMITH whose telephone number is (571)272-9524. The examiner can normally be reached on Monday through Friday, 7:30 am - 5:00 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/

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Supervisory Patent Examiner, Art Unit 2421

/Chenea P. Smith/

Examiner, Art Unit 2421